CHESTER MILLS, Superintendent, Bureau of Indian Affairs, Uinta and Ouray Agency
P.O. Box 130
Ft. Duchesne, UT 84026

UNITED STATES OF AMERICA,

Defendants.

COMPLAINT FOR DECLARATORY RELIEF, VIOLATIONS OF 5 U.S.C. § 701 et seq., DAMAGES FOR BREACH OF UTE PARTITION ACT, VIOLATIONS OF 5TH AMENDMENT RIGHT TO DUE PROCESS, DAMAGES FOR BREACH OF FIDUCIARY TRUST OBLIGATIONS AND FOR AN ACCOUNTING

Plaintiffs Oranna Bumgarner Felter, Calvin Hackford, Richard H. Curry, Jens Dale Christensen and other individually named plaintiffs listed in Attachment A, bring this action against the defendants alleging as follows:

NATURE OF THIS ACTION

1. Plaintiffs bring this action to seek redress of numerous wrongs committed against them by defendants as the result of the premature, incorrectly implemented and unlawful termination of the federally-recognized "Indian" status of each individual plaintiff as a member of the Unita Band of Utes ("Uinta Band"), a separate and independent Band of Ute Indians, residing and living on or near the Uinta and Ouray Reservation, Utah, at all times alleged herein.

2. Plaintiffs seek redress of numerous wrongs committed against them by defendants as the result of the loss of their ownership and interest in federal trust property that was intended to be held and managed by defendants under continuing the federal trust relationship until such time as their special status as "Indians" and members of the Uinta

Band was "terminated" in accordance with laws passed by Congress.

3. Plaintiffs seek declaratory relief recognizing that, because defendants failed to correctly implement and execute toward them federal termination laws intended to terminate their special status as "Indians", they never relinquished that status.

4. Plaintiffs seek compensation for damages suffered by them as a consequence of defendants' failure to correctly implement federal laws intended to terminate their special status as "Indians".

5. Plaintiffs seek an accounting of funds entrusted to and held by defendants in federal trust status for the benefit of plaintiffs at times prior to and after their purported "termination".

6. Plaintiffs have no adequate administrative remedies. For over forty (40) years, Plaintiffs have repeatedly requested that defendants comply with their obligations and redress the breaches of trust herein complained of and to correct their failure to implement their so-called "termination".

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to the Administrative Procedures Act ("APA"), 5 U.S C. §701 et seq., and 28 U.S.C. §1331, in that plaintiffs seek judicial review of the past and current actions of federal officers, agents and employees in connection with the purported termination of the trust status of the lands and the Indian status of the indigenous people of the Unita Band under the "Ute Partition Act" ("UPA"), Pub. L. No. 671, 68 Stat. 868 (codified as amended at 25 U.S.C. §§ 677-677aa (1982)) on the

grounds that the actions of said defendants were and are contrary to Acts of Congress, Executive Orders and the federally-approved Constitution and By-laws of the Ute Indian Tribe of the Uinta and Ouray Reservation, Utah, in excess of their legal authority and arbitrary and capricious, and that said actions have deprived and are continuing to deprive, plaintiffs of their aboriginal status as members of the Uinta Band and other vested federal rights in violation of the Constitution and laws of the United States, as more fully described below.

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1346(b) in that plaintiffs seek to recover damages against the United States for claims for breach of contractual, statutory and fiduciary obligations owed by the United States to plaintiffs as "wards" and as individuals wrongfully deprived of their status as Indians, said claims not sounding in tort and arising under the Constitution and/or laws of the United States.

9. This Court has jurisdiction over this action pursuant to 25 U.S.C. §345 and 28 U.S.C. §1353, in that plaintiffs claim the right to allotments, parcels of land, minerals, oil, gas, grazing rights, water rights and other valuable property interest which they are entitled by virtue of laws of the United States, and that they have been unlawfully denied, excluded and/or deprived of such allotments, parcels of land, minerals, oil, gas, grazing rights, water rights and other valuable property interest, as more fully described below.

10. This Court has jurisdiction pursuant to 28 U.S.C. §2201 and §2202 in that an actual controversy exist between all plaintiffs and defendants which requires a declaration of rights and other legal relations of plaintiffs upon and after the correct interpretation by this

Court of the UPA, Acts of Congress, the Constitution of the United States of America and the Amendments thereto, the "Constitution and By-Laws of the Ute Indian Tribe of the Uinta and Ouray Reservation, Utah", a consolidation of three (3) aboriginal Bands of Ute Indians, and other federal laws and regulations and tribal custom and practices of the Uinta Band regarding tribal membership, tribal status and continuity of tribal governance.

11. Unless and until the Court declares the rights and obligations of the parties, the actions of the federal defendants in approving a document referred to as the "proclamation of termination" that was published in the Federal Register on August 24, 1961 (26 Fed. Reg. 8042) will continue to deprive plaintiffs of their right to fully participate in the tribal governance of the "Uinta Band" and to benefit from their unbroken "special relationship" with the United States, as established through their relationship with the "historical" Uinta Band, since no laws of the United States expressly included, within their terms and provisions, any express language of abrogation of the Uinta Band as a governmental body.

PARTIES

12. Plaintiffs Oranna Bumgarner Felter, Calvin Hackford, Alvin Richardson Denver, Sr., Jens Dale Christiansen, and the each of the other individually-named plaintiffs described in Attachment A, were directly affected by the actions of the named defendants toward them as further described herein as a consequence of the long rejected federal policy of "termination", which arose in the early 1950's, that has been largely reversed among those victims of this grotesque genocidal federal policy that has no parallel among honorable democratic nations.

13. The status of plaintiffs Oranna Bumgarner Felter, Calvin Hackford, Richard H. Curry, Sr., Jens Dale Christiansen and each individually named plaintiff derives from their special relationship with a historically recognized and federally-recognized tribal sovereign, the Uinta Band, whose sovereign authority as an Indian tribe has never been abrogated by law.

14. Plaintiffs are also deceased members of the Uinta Band and their descendants and/or Indian successors in interest for whose benefit the United States of America acquired and created the Uinta and Ouray Indian Reservation by Executive Order of October 3, 1861, as confirmed by the Act of May 5, 1864, 13 Stat. 63, by the Executive Order of January 5, 1882 and by Act of March 11, 1948, 62 Stat. 72.

15. Plaintiffs also include undetermined numbers of persons who were not denominated as "mixed-blood" members of the Uinta Band and, thus, specifically targeted by the defendant United States for "termination" of their special relationship with the United States by a proclamation published on August 27, 1961, subject to restrictions on certain property which continued until August 27, 1964. These "forgotten" or "should have been enrolled" plaintiffs were born prior to the publication of the termination proclamation in 1961 and they retain their status to this day as members of the Uinta Indian Tribe by virtue of the fact that the UPA did not expressly extinguish or abrogate the entity known as the "Unita Band", a separate tribal entity existing and recognized at all times prior to January 19, 1937.

16. Congress intended that the UPA would sever and, thus, extinguish or abrogate

only the special relationship between targeted 490 named individuals and the United States and not the continuing existence of the entity known as the "Uinta Band."

17. Defendant Gayle Norton, sued in her official capacity as Secretary of the Interior of the United States, is the chief executive officer of the United States Department of the Interior. As such, defendant Norton has ultimate authority over and responsibility for the actions of her predecessors and subordinates within the Department of the Interior, including the Bureau of Indian Affairs ("BIA"), and for the discharge of the statutory and trust obligations owed by defendant United States of America to the members of the Uinta Band specifically targeted for termination under the UPA and those plaintiffs born and living prior to August 27, 1961 but "forgotten" and left off the published termination proclamation. References herein to defendant Norton are intended to include her predecessors in office and/or her/their subordinates acting under color and/or on behalf of the authority of that office.

18. Defendant Neal McCaleb is the Assistant Secretary of the Interior for Indian Affairs and is responsible for the management and operation of the BIA, an Agency within the Department of the Interior. References herein to defendant McCaleb are intended to include his predecessors in office and/or his/their subordinates acting under color and/or on behalf of the authority of that federal office.

19. Defendant Ralph Nordwall is the Director, BIA, Southwestern Regional Office. References herein to defendant Nordwall are intended to include his predecessors in office and/or his/their subordinates acting under color and/or on behalf of the authority of that

federal office.

20. Defendant Chester Mills is the Superintendent, BIA, Uinta and Ouray Agency. References herein to defendant Mills are intended to include his predecessors in office and/or his/their subordinates acting under color and/or on behalf of the authority of that federal office.

21. All the defendants are officers and employees of the United States and have direct and delegated statutory duties in fulfilling the trust responsibilities of the United States to all persons with established "special relationships" to the historic predecessor Uinta Band, a federally-recognized Indian Tribe, who, on January 19, 1937, was consolidated along with the Uncompaghre and Whiteriver Bands of Ute Indians, such Bands historically residing in Western Colorado at all times prior to September 13, 1881, into one Tribal government referred to as the "Ute Indian Tribe of the Uinta and Ouray Reservation" under the 1934 Indian Reorganization Act ("IRA"). The members of the Uinta Band were the original aboriginal occupants of the area of land in and around the modern day Uinta and Ouray Reservation.

22. The actions of all defendants resulted in the forced "trail of tears" type removal of plaintiffs from their historical and spiritual homelands in favor of Ute Bands from Colorado possessing no historical or contemporary moral or legal claim to the Uinta and Ouray Reservation *except* through the unlawful actions of defendants herein described. However, unlike the notoriously famous Cherokee "Trail of Tears", plaintiffs in this action were not "removed" to another Indian reservation - plaintiffs and their children were cheated,

defrauded and driven out of their cherished ancestral homelands and other tangible and intangible things of immense spiritual and monetary value and left to languish in poverty and die in hopeless despair across a barbed wire reservation line fence and within sight of their birthright.

23. All federal defendants were under a lawful mandate to implement the UPA in accordance with the plain language and intent of Congress in enacting this racially and culturally selective federal law so that implementation would not lead to the destruction of the Uinta Band and the theft or loss of its land, water and money. Further, all federal defendants were under a continuing lawful mandate and duty to take corrective action to properly implement the UPA and to insure that any and all pre-existing laws and other regulations *not specifically extinguished* by the passage of this racially and culturally-based genocidal federal law would remain intact and respected by everyone, including those Indian Tribes, corporations, companies, individual persons and other entities who wrested control and ownership of the immensely valuable land and water rights of the Uinta Band in violation of UPA and the enforceable terms of the Constitution and Bylaws of the Ute Indian Tribe of the Uinta and Ouray Reservation of Utah, as more fully described below.

FACTUAL BASIS FOR CLAIMS

24. On October 3, 1861, President Abraham Lincoln declared the entire Uinta Valley, consisting of 2,487,474 acres of land, an Indian "reservation." By 1869, the Uinta Band had been forced to relocate to the newly declared reservation set aside for them. This set aside parcel, which became known as the "Uinta and Ouray Reservation" ("Reservation"), was

purchased in order to provide said Indians with a secure land base on which to build homes, grow crops for food and sale, graze cattle and cut wood for fuel and sale, and where said Indians would be free from depredations by non-Indians.

25. The original reservation included the entire valley of the Uinta River within Utah Territory, extending on both sides of the river to the crest of the first range of contiguous mountains on each side and was established for such Indians of the Uinta Band as could be persuaded to locate there. Prior to 1881, the only Indians from the territory of Utah to occupy the Reservation were members of the Uinta Band.

26. On or about 1881, the Uinta Utes' interest in the Reservation was diminished when the United States opened it to the White River Band of Utes, originally occupying their homelands in Western Colorado until the Band was removed to the Uinta Band of Utes' reservation under a "removal agreement" executed with the United States under less than honorable circumstances.

27. By Acts of January 27, 1897 (30 Stat. 62, 87), June 4, 1898 (30 Stat. 429), and the joint resolution of June 19, 1902 (32 Stat. 744), amending the Act of May 27, 1902 (32 Stat. 245, 263), the Secretary of the Interior was directed to allot lands of the Uinta Valley reservation to the Uncompaghre as compensation for the taking of their Colorado reservation.

28. By operation of law and fact, the United States continued to recognize the Uinta Band's Reservation as their exclusive property by making appropriations to compensate them for the reductions in their interest in the Reservation due to the forced occupation by the White River and Uncompaghre Bands of Reservation lands that, prior to August 21, 1950,

had been held exclusively in title for the Uinta Band.

29. The Uinta Band's interest in the original reservation set aside for them exclusively was further reduced by a series of Acts of Congress reducing the reservation: Act of May 24, 1888 (25 Stat. 157) restoring certain portions of the reservation to the public domain; the Act of March 3, 1905 adding approximately 1,010,000 acres of land within the reservation to the Uinta Forest Reserve; the Act of April 4, 1910 (36 Stat. 269, 285) extinguishing the Indian rights in approximately 60,000 acres of reservoir sites and other irrigation works.

30. The "Ute Indian Tribe", a modern fiction, came into existence by the adoption of a Constitution and Bylaws, approved under the IRA of 1934 on January 19, 1937. Prior to the adoption of this Constitution, the three (3) Band known as the Uinta, Whiteriver and the Uncompaghre maintained their individual status as federally-recognized tribal sovereigns, existing since time immemorial and before the creation of the United States of America. The different Bands had their own individual spokesman and representatives for each tribal entity and each Band's rights were different in nature due to the geographical locations that they had originally occupied with the Uinta Band in the status of the original occupant prior to the time their lands were turned over to the other two (2) Bands for their use.

31. At the time the "Ute Indian Tribe" was created under the IRA in 1937 pursuant to a governing document approved by the BIA, the Bands and the United States clearly intended that the right of each Band to exercise its inherent sovereignty independently from the other consolidated Bands would be respected under the enforceable Constitution and By-laws of the "Ute Indian Tribe." At the time the "Ute Indian Tribe" was created, all parties

to the federally-approved governing document intended that each Band would be governed by a Tribal Business Committee consisting of six (6) members, two (2) members duly elected from each of the three (3) Band of the Ute Indian Tribe of the Uinta and Ouray Reservation, known as the Uinta, Uncompaghre and Whiteriver Bands.

32. In adopting the Constitution and By-laws in 1937, each of the three (3) Bands, the defendant United States, the defendant Department of the Interior and the defendant BIA, all agreed that no property rights shall be acquired or lost through membership in the modernly created entity known as the "Ute Indian Tribe" except in the manner(s) specified in the governing document. Each plaintiff's status to enjoyment of the special federal trust relationship with the United States is a property right that cannot be lost through the execution of a vote by only two (2) of the Bands undertaken and executed in an illegal manner and in violation of the IRA-approved Constitution and By-laws of the "Uinta Indian Tribe".

33. In adopting the Constitution and By-laws in 1937, each of the three (3) Bands, the United States, the Department of the Interior and the BIA, all agreed that the Business Council of the modern creation titled the "Ute Indian Tribe" would only exercise certain enumerated powers subject to the limitations imposed by the statutes or the Constitution of the United States, and subject further to all express restrictions upon such powers contained in the federally-approved IRA Constitution and By-laws, subject to further review by each of the Ute Bands themselves at any annual or special meeting.

34. In the early 1950's, the "Confederated Bands of Colorado Utes" obtained a $32

million judgment from the Indian Claims Commission that was to be divided among the five (5) Confederated Tribes of the Utes, two (2) of these Ute Bands, the Uncompaghre and Whiteriver, were living on the Reservation and the remaining Bands were in Colorado except those on a small portion which was located in Utah in the area commonly known as the "Four Corners". At this time, the majority of the Confederated Bands (exclusive of the Uinta Band) did not reside on the Reservation.

35. In the early 1950's, the Uinta Band filed a claim in the Indian Claims Commission against the United States for monetary compensation for all lands taken from them lying south of the Reservation to the Arizona border. A condition of settlement between the Confederated Bands and the Uinta Band was that the Uinta's would withdraw approximately 130,000 acres of land out of their claims against the United States for an uncompensated taking since this amount of land was occupied by members of the Confederated Bands.

36. On June 1, 1950, tribal Resolution No. 3 was adopted to resolve that the Uinta Bands' would share in the Colorado judgment funds for lands relinquished from their part of a separate Indian Claims Commission action against the United States. In effect, the Uinta Band acquired the right to share in the Colorado judgment funds because of the Uinta's agreement that they would release 130,000 acres of lands that they had claimed in their Indian Claims Commission action.

37. For Resolution No. 3 to be valid, according to federal law, the Uinta Band had to vote separately on the "share and share alike" agreement. The records proves that no such separate vote by the Uinta Band was ever conducted. Defendant BIA knew, on June 1, 1950,

and continues to know that no vote on approval of the "share and share alike" agreement had been executed according to applicable provisions of the "Ute Indian Tribe's" governing document.

38. Resolution No. 3 embodied the Executive Orders of 1861 and 1862 and stated that: "Be it further resolved, that the members of the Uncompaghre, Whiteriver and Uinta Bands of the Ute Indians in the same meeting hereby compromise and settle all existing controversies between themselves as to the ownership of land within the Uinta and Ouray Reservation and income issuing therefrom, both heretofore and hereafter, by determining and agreeing that such land and income shall be tribal property of all Indians of the Ute Indian Tribe of the Uinta and Ouray Reservation without regard to band derivation."

39. The three (3) Bands maintained their separate identities and the exclusive title of the Uinta Band to the Reservation lands continued to be recognized at all times to and including August 21, 1951, the date the United States Congress implemented the "share and share alike" agreement as a means of attempting to resolve a controversy involving the varied interest of the Bands in a $32 million dollar judgment and the interest of the Uinta Band in recovering for things of value provided to the Colorado Bands from Uinta Band land and assets that had been included in the Indian Claims Commission claims against the United States.

40. Under pressure from a United States Congressman named Arthur Watkins, a Mormon and fervent advocate of the concept of "termination", a law based on the concept of destroying the spiritual and cultural basis of an indigenous tribal group by stripping them

of their politically- based identity with the United States, the "Ute Indian Tribe" was coerced, threatened, fooled and otherwise forced by defendants to consider discarding their special relationship with the United States in return for the dispersal of the $32 million dollar judgment. Congressman Watkins made sure that the "share and share alike" agreement was so closely intertwined with the release of the $32 million dollar judgment that repeal of the Act of August 27, 1951, a taking of property subject to the Due Process Clause, by the "Ute Indian Tribe" would not be an option.

41. On information and belief, non-tribal political operatives and other persons and business entities maintaining direct and attenuated relationships with Congressman Watkins wound up with vested rights, property and interest owned by plaintiffs as a result of all defendants' failure to correctly implement the UPA.

42. On March 31, 1954, a General Council meeting was called and the matter of the "termination" of the "Mixed-bloods" or the Uinta Band of Utes was placed on the floor without compliance with the plain terms of the IRA-approved Constitution and By-Laws of the Ute Indian Tribe, including Article II, § 2 which states that "no property rights shall be acquired or lost through membership" in the IRA created Ute Indian Tribe and Article VII, § 1 which further states that the Business Committee shall not exercise certain enumerated powers to deprive the Bands or individual members of those Bands their rights as granted under the Constitution of the United States or the IRA Constitution of the Ute Indian Tribe unless reviewed by the Ute Bands themselves at any annual or special meeting.

43. As a consequence of the March 31, 1954 meeting and upon no legal notice issued

on discussing any aspect of blood quantum changes of any Band, the General Council of the "Ute Indian Tribe" purportedly voted 152 to 8 against to separate the assets of the IRA created "Ute Indian Tribe" between the so-called mixed-blood Utes, predominately members of the Uinta Band, and the full-blood Utes.

44. Based upon the invalid and null and void vote purportedly held by the "Ute Indian Tribe" on March 31, 1954, the United States Congress passed the UPA on August 27, 1954 over the stated objection of hundreds of Utes, Uinta Band (mixed-blood) and full-bloods, who protested the fraudulent misrepresentations made to Congress on the acceptance of "termination" by the "Ute Indian Tribe."

45. On information and belief, although Congressman Watkin's and the defendants originally intended to "terminate" the so-called full-blood Utes of the Whiteriver and Uncompaghre Bands, these Bands were not, through deft political maneuvering with certain members of Congress and officials of the Department of the Interior, ultimately terminated. The Whiteriver and Uncompaghre Bands managed to obtain, through a conspiracy with the defendants, extremely valuable land, water rights and other things of value owned and held in federal trust for the Uinta Band as well as land, water rights and other property intended to be given to the individual mixed-bloods under the UPA for their use and ownership *after* proper implementation of the UPA.

46. The trust relationship between the United States and the Indians of the Uinta Band or, more commonly labeled as the "mixed-bloods", was intended by Congress to *continue unless and until* said relationship was terminated pursuant to and in total conformity with an

Act of Congress, the UPA, having as its express purpose the termination of said trust relationship with each of the 490 persons named and listed on the "Final Roll of Mixed-bloods" and not the extinguishment of the historical tribal entity known as the Uinta Band.

47. Under the UPA, a mandatory condition precedent to the lawful distribution of assets, both individually held by members of the Uinta Band and held by the tribal entity known as the Uinta Band, was that the profits, income and other valuable consideration arising from those divisible and indivisible assets and properties were to be directed toward the benefit of members of the Uinta Band, as well as those included with them, and their families to accomplish the goals of the termination policy. In enacting the UPA, Congress purportedly intended to foster a climate in which Indians could manage their own affairs to create an atmosphere where the mixed-bloods would not have their assets wrongfully dissipated into the hands of the other two (2) Bands or non-Indians, leaving many of the mixed-bloods poverty-stricken and more dependent than before.

48. On information and belief, as a direct and proximate consequence of defendants' intentional efforts to throw a cloud of confusion over the disposition of Indian Claims Commission settlement funds earmarked and targeted for distribution under Act of Congress enacted on August 21, 1951 affirming the "share and share alike" agreement, plaintiffs share of the allocated $32 million dollar judgment and the interest owed to them as members of the Uinta Band was lost to them, their children and their heirs.

49. On information and belief, defendants' failure to account for all plaintiffs' share of the allocated federal trust funds has resulted in unlawful benefit to defendants and other

unintended persons and business entities and an enormous loss of income to plaintiffs, their children and their heirs from funds held by the United States Treasury for their benefit as defined under the UPA.

FIRST CAUSE OF ACTION

[Declaratory Judgment Act - 28 U.S.C. § 2201 and 2202]
All Plaintiffs' Claims For Individual Declaratory Relief For Violation Of IRA Constitution

50. Plaintiffs re-allege each of the allegations set forth in paragraphs 1 through 49 above, and by this reference incorporate each such allegation herein as if set forth in full.

51. In enacting the UPA, the United States Congress did not relieve the named defendants from respecting or otherwise complying with *substantive pre-existing laws, statutes or regulations such as the federally-approved 1937 IRA Constitution and By-Laws and its provision mandating that no property rights shall be acquired or lost through membership in the modernly created entity known as the "Ute Indian Tribe" except in the manner(s) specified in the document.*

52. In the haste of the defendants to defraud the individual members of the Uinta Band out of their special relationship with the United States and to misrepresent to the United States Congress that each of the 490 persons listed on the "Final Roll of Mixed-bloods" published in the Federal Register on August 27, 1961 "voluntarily" agreed to "termination" of their special political relationship with the United States, defendants failed to follow the plain language of the Constitution and By-Laws of the Ute Indian Tribe, created in 1937pursuant to the IRA, mandating that all consolidated Bands would not act to affect, diminish or deprive the property rights of plaintiffs except *in* the manner(s) specified in the

governing document.

53. Each plaintiff's status to enjoyment of the special federal trust relationship with the United States is a *substantive* "property right" that cannot be lost through the execution of a vote by only two (2) of the Bands undertaken and executed in an illegal manner and in violation of the IRA-approved Constitution and By-laws of the "Uinta Indian Tribe" and the intent of the "share and share alike" agreement implemented on August 21, 1951 by the United States Congress.

54. All defendants were under a moral and legal obligation and common law duty to immediately take proper actions to correct the plain and open violation of the *substantive* federally-approved and enforceable IRA governing document of the modernly created "Ute Indian Tribe", a fiction non-existent under the common laws of the Uinta Band and the Act of Congress, dated August 21, 1951, enacting the "share and share alike" agreement..

55. Prior to the purported termination of the special trust relationship with each of the 490 Mixed-bloods listed on the published proclamation, the defendant BIA was obligated to disclose any plans, secret or otherwise, to terminate the individual members of the Uinta Band (mixed-bloods) so as to exclude them from obtaining any share of the $32 million dollar judgment and to exclude them from the aboriginal homelands.

56. Prior to and during the process of promulgating the UPA for the Uinta Band (mixed-bloods) and the "Plan for Distribution of the Assets of the Individual Mixed-blood Members" and during the process of obtaining the approval of said Plan by the members of the Uinta Band (mixed-bloods) and during the implementation of said Plan, defendants failed

and/or refused to provide the Uinta Band (mixed-bloods) with such accurate and adequate information, advice and assistance as reasonably was required by them in order that said individual members of the Uinta Band (mixed-bloods) could fully and accurately understand their rights and the obligations of the United States under the UPA, the relative advantages and disadvantages of accepting termination and the options available to them under the UPA and the legal consequences of exercising those options. Had defendants provided such adequate information, the individual members of the Uinta Band (mixed-bloods) would have been informed of the steps they could take for themselves to accomplish the goals of the termination policy which was to foster a climate in which the terminated Indians could competently manage their own affairs and the affairs of their minor children.

57. When plaintiffs within the "490" attempted to competently manage their affairs with financial resources derived from the UPA, defendants sought to undermine and destroy their efforts so that the true and intended purposes of the *substantive laws and regulations* underlying the UPA would be frustrated in such a manner that their land, water rights and other valuable property would go into the hands of unintended beneficiaries, in effect, the "Ute Indian Tribe", non-Indians and non-Indian business entities.

58. Defendants participated and knew about this wrongful transfer of their land, water rights and other valuable property in derogation of Congress' intent behind the UPA but, nonetheless, connived with the unintended beneficiaries to insure that the Uinta Band's property and valuable assets and those of its members (mixed-bloods) would be taken from them by the defendants' aligning themselves with and supporting the "Ute Indian Tribe" and

other unintended beneficiaries so they would wrongfully benefit from a breach of the fiduciary trust relationship owed by the defendants to the Uinta Band and each of the individual plaintiffs.

59. Because the relationships between the persons named on the Final Roll of Mixed-blood Utes were not properly terminated as intended by Congress when it passed the UPA, defendants have been and continue to be obligated not only to protect plaintiffs' status and interests in the faulty and incomplete termination of their individual special relationship with the United States, but also to affirmatively act to ensure that plaintiffs receive all opportunities, rights, benefits and improvements to which they are entitled under the Constitution and laws of the United States, the IRA approved Constitution and Bylaws of the "Ute Indian Tribe" and their pre-existing status as members of the Uinta Band who held exclusive beneficial title to the Uinta Reservation at all times prior to August 21, 1950.

60. As a direct and proximate consequence of each defendants' intentional failure to respect provisions of the *substantive* 1937 IRA Constitution and By-Laws of the Ute Indian Tribe and the *substantive* "share and share alike" agreement, the defendants breached their duty toward properly accounting for the earlier enacted federally-approved governing document and an Act of Congress and wrongfully deprived each of the plaintiffs out of their special relationship with the United States.

61. By reason of these breaches of *substantive and independent federal law and regulation*, plaintiffs are entitled to a decree rescinding the "Final Roll of Mixed-bloods" published in the Federal Register on August 27, 1961, restoring their rights, status and

privileges and immunities as Indians under the law of the United States, declaring that any of their rights and property obtained through the UPA and lost as a consequence of defendants' disregard for the 1937 federal law and the "share and share alike" agreement, declaring the continuing obligation of defendants not only to provide plaintiffs with services, benefits and programs necessary to bring their living and economic conditions in conformity with the goals, objectives and intended policies of the United States in implementing the true and intended purposes of the UPA, but also to provide such remedial services as will remedy the deficiencies and damages which have existed during the time when the plaintiffs were unlawfully deemed to have been terminated.

62. An actual controversy exist between the plaintiffs, in that said plaintiffs contend that defendants breached their trust obligations toward them by violating the plain terms of the 1937 federal law and the "share and share alike" agreement and the moral and legal duties owed to them in the manner alleged above, and thus that said plaintiffs are entitled to relief sought immediately above.

WHEREFORE, plaintiffs pray as hereinafter set forth.

SECOND CAUSE OF ACTION

[Declaratory Judgment Act - 28 U.S.C. § 2201 and 2202]
Plaintiffs' Claims For Individual Declaratory Relief As Members Of The Uinta Band Of Utes

63. Plaintiffs reallege each of the allegations set forth in paragraphs 1 through 62 above, and by this reference incorporate each such allegation herein as if set forth in full.

64. Beginning with the creation of the Reservation in 1861, a trust relationship existed and continues to exist between the United States and the Uinta Band due to the faulty and

incomplete termination, under the *substantive* UPA, of the special trust relationship between individual members of the Uinta Band, and others included with them, on a list naming 490 persons published by the Commissioner of Indian Affairs on August 27, 1964 and referred to as the "Final Roll of Mixed-blood Utes".

65. The UPA lacks any unequivocal expression of congressional intent to subject the pre-existing tribal sovereign, the Uinta Band, to an abrogation of its sovereign authority. There is no clear indication in the UPA that Congress has implicitly deprived the Uinta Band of its sovereign power, upon which its contemporary existence to the date of the filing of this action, is predicated.

66. The UPA focused on the "Ute Indian Tribe of the Uinta and Ouray Reservation" in Utah. The UPA did not terminate federal supervision over the entire Ute Indian Tribe, but instead divided the "Ute Indian Tribe into two (2) groups, "full-blood" members and "mixed-blood" members, and provided for the termination of federal supervision only as to the "mixed-blood members." This federally approved "divide and conqueror" tactic resulted in Ute families divided by hatred and emotion to the point where plaintiffs were placed in the most defenseless and weakened state possible by defendants so that they would be unable to exercise their right to defend their property and culture from destruction - a right granted to all United States citizens *except* plaintiffs named herein.

67. The stated purposes of the UPA were to partition and distribute the assets of the Ute Indian Tribe between the Uinta Band (mixed-bloods) and the full-blood group; to end federal supervision over the trust and restricted property of members of the Uinta Band

(mixed-bloods); and to create a development program for the full-blood members to assist them in preparing for later termination of federal supervision over their property that never happened because of deft maneuvering.

68. In 1961, federal guardianship over only the individual members of the Uinta Band (mixed-bloods) was purportedly officially terminated by issuance of a proclamation of the Secretary of the Interior. Although the proclamation ended federal supervision over the assets distributed to the mixed-blood group, it did not terminate the trust status of the indivisible assets nor did it terminate the status of the Uinta Band as one (1) of the three (3) Bands consolidated under the IRA of 1937.

69. It is a well-established principle that a tribe retains all inherent authority not explicitly divested by Congress. Because defendants failed to effect the termination of the Uinta Band pursuant to and in accordance with provisions of and/or as authorized by the UPA or other Act of Congress, the Uinta Band exist and has always existed to date despite the efforts of defendants to conceal this fact from plaintiffs and those unintended beneficiaries who absconded with their land, water rights and other valuable property.

69. A detailed review of the history of the Uinta Band proves that the United States has maintain an uninterrupted and continuous relationship with the Uinta Band from early times to the present and the United States maintains in federal trust status to land, money and property of the Uinta Band by reason of its breach of 1937 IRA Constitution .

70. By reason that Congress has not explicitly divested the Uinta Band of its inherent sovereign authority, plaintiffs are entitled to a decree restoring their rights, status and

privileges and immunities as Indians of the Uinta Band and a decree that the conveyance of land, money and property belonging to the Uinta Band to the "Ute Indian Tribe" or other non-Indians and non-Indian entities is unlawful and in violation of the 1937 IRA Constitution.

71. An actual controversy exist between the plaintiffs, in that said plaintiffs contend that defendants have breached their trust obligations toward them and their tribe, the Uinta Band, by failing or refusing to acknowledge the existence of the Uinta Band in the manner alleged above, and thus that said plaintiffs are entitled to relief sought immediately above.

WHEREFORE, plaintiffs pray as hereinafter set forth.

THIRD CAUSE OF ACTION

[Declaratory Judgment Act - 28 U.S.C. § 2201 and 2202]
"Should Have Been Enrolled" Plaintiffs' Claims For Individual Declaratory Relief As Members Of The Uinta Band Of Utes

72. Plaintiffs re-allege each of the allegations set forth in paragraphs 1 through 71 above, and by this reference incorporate each such allegation herein as if set forth in full.

73. Plaintiffs not on the list of 490 who were born prior to the publication of the termination proclamation in 1961 and living at the moment the defendants purportedly terminated the special relationship of the 490 so-called mixed-blood Utes with the United States retained their status in the un-extinguished tribal sovereign entity known as the "Uinta Band" pursuant to *substantive* custom and *substantive* tribal law mandating that a child born of parents who are members of a tribe retain their tribal identity at the time they are born. Pursuant to *substantive* tribal custom, law and tradition, plaintiffs who were not officially enrolled in accordance with the *substantive and independent* provisions of the 1937 IRA

Constitution and By-Laws of the Ute Indian Tribe, a modern fiction, were considered as automatically assuming the status of the tribe from which their parents originated, in this instance, the Uinta Band.

74. Defendants failure to disclose the fact that Congress never intended to abrogate the "Uinta Band" as a federally-recognized sovereign caused confusion over the status of plaintiffs "who should have been enrolled"as members of the "Uinta Band" and, thus, these children were unlawfully placed in a "forgotten" category of Indians under federal law that has resulted in immense emotional pain, agony and depression to them because they have been deprived of their tribal status and both federal and tribal benefits that should have been available to them as of right.

75. By reason that Congress has not explicitly divested the Uinta Band of its inherent sovereign authority, the "should have been enrolled" plaintiffs are entitled to a decree restoring their rights, status and privileges and immunities as Indians of the Uinta Band.

76. An actual controversy exist between the plaintiffs, in that said plaintiffs contend that defendants have breached their trust obligations toward them and their tribe, the Uinta Band, by failing or refusing to acknowledge the existence of the Uinta Band in the manner alleged above.

WHEREFORE, plaintiffs pray as hereinafter set forth.

FOURTH CAUSE OF ACTION

[5 U.S.C. §701 et seq.]

All Plaintiffs' Claims For Judicial Review And Relief

77. Plaintiffs re-allege each of the allegations set forth in paragraphs 1 through 76

above, and by this reference incorporate each such allegation herein as if set forth in full.

78. Pursuant to the APA, 5 U.S C. §701 et seq., plaintiffs seek judicial review of all past and current actions of federal officers, agents and employees in connection with the purported termination of the trust status of the lands and the Indian status of the people of the Uinta Band under the UPA on the grounds that the actions of said defendants were and are contrary to Acts of Congress, Executive Orders and the federally-approved Constitution and By-laws of the Ute Indian Tribe of the Uinta and Ouray Reservation, Utah, in excess of their legal authority and arbitrary and capricious, and that said actions have deprived and are continuing to deprive, plaintiffs of their aboriginal status as members of the Uinta Band and other vested federal rights in violation of the Constitution and laws of the United States.

79. In the course of acting contrary to law as described above, defendants employed the judicial system of the United States against the plaintiffs to establish case law precedent favorable to defendants that was built on misrepresentations of facts, false allegations and bogus legal arguments to United States District Court, United States Courts of Appeal and the United States Supreme Court.

80. In the course of making such misrepresentations, allegations and bogus legal arguments to the Courts, defendants never told the Courts that minors named on the list of the 490 were not competently represented by the defendant BIA or not competently represented by legal counsel who had irreconcilable conflicts of interest known to the defendant BIA or that the UPA had been enacted by the United States Congress upon defendant BIA's fraudulent misrepresentations that the "Ute Indian Tribe" had complied with

the provisions of the 1937 IRA Constitution and By-Laws requiring separate action by the Uinta Band and formal notice to the Uinta Band that the so-called "mixed-bloods", largely consisting of the Uinta Band members, were going to be subjected to a vote on their blood quantum by the other two (2) Bands, with no historical relation to the Uinta tribal territory, who had self-serving and financial reasons for singling them out for spiritual, racial and cultural extermination.

81. In the course of making such misrepresentations to the Courts of the United States, defendants never exercised their duty of candor to the Courts to present to these judicial bodies that the federal policy of termination had been officially rescinded by Executive Order or that overwhelming evidence proved that the termination of the members of the Uinta Band was gained through criminal and civil fraud, duress, coercion, overreaching and other numerous violations of the defendants toward plaintiffs, intentionally placed by defendants in a weakened position, so that the UPA would appear to the Courts to be the end result of voluntary action taken by the 490.

82. In the course of making such misrepresentations to the Courts of the United States, defendants relied upon their overpowering presence as representatives of the Executive Branch of the United States over the intentionally weakened plaintiffs, to promote the continuation of a disfavored genocidal agenda, termination, knowing that the defendants would likely prevail against plaintiffs in the Courts of the United States because of defendants' position would be favored by the federal judiciary, who made findings, upon key misrepresentations and deceptive statements, that the plaintiffs had voluntarily agreed to and

accepted their termination. Defendants orchestrated a program designed to lead to the failure of the UPA in total disregard of the notice and rule-making provisions of the APA.

83. In the course of making such misrepresentations to the Courts of the United States, defendants intended to deprive plaintiffs of their right to exhaust their administrative remedies as provided under federal administrative law. This deprivation of plaintiffs' right to a fair and just resolution of their administrative appeals of BIA action relied upon the misuse of the federal courts by the defendants to create case law precedent built entirely upon overpowering, overreaching, fraud, misrepresentation and deception, all in derogation of the interest of the Uinta Band, an aboriginal Indian Nation whose existence has never been extinguished by Act of Congress.

84. Defendant's motive for the perpetuation of the false scenario to the federal judiciary and the United States Congress was to hide or otherwise obscure the Executive Branches' unlawful dissipation of the extremely valuable land, property and assets of the Uinta Band to non-intended parties, the "Ute Indian Tribe", a modern fiction, and non-Indians who were freely allowed and encouraged by the BIA to obtain the property and assets of the purportedly "terminated" members of the Uinta Band (mixed-bloods) in violation of Acts of Congress. Defendants knew that the conveyances of trust property and assets of the Uinta Band and its individual members was defective and not in accordance with the UPA, the 1937 IRA Constitution of the modern fiction called the "Ute Indian Tribe" and the Congressionally approved "share and share alike" agreement.

85. By reason of the violations of the UPA, the 1937 IRA Constitution and the "share

and share alike" agreement as alleged above, plaintiffs are suffering systematic deprivations of valuable Indian rights, to their severe and irreparable injury, and for which deprivation they have no plain, speedy or adequate remedy at law.

WHEREFORE, plaintiffs pray as hereinafter set forth.

FIFTH CAUSE OF ACTION

[28 U.S.C. § 1346(b)]

All Plaintiffs' Claims For Damages For Breach Of UPA

86. Plaintiffs re-allege each of the allegations set forth in paragraphs 1 through 85 above, and by this reference incorporate each such allegation herein as if set forth.

87. Pursuant to 28 U.S.C. §1346(b), in that plaintiffs seek to recover damages against the United States for claims for breach of contractual, statutory and fiduciary obligations owed by the United States to each plaintiffs both as "wards" and as individuals deprived of their status as Indians, said claims not sounding in tort and arising under the Constitution and/or laws of the United States; 25 U.S.C. §345 and 28 U.S.C. §1353.

88. Plaintiffs are Indians listed on the Tribal roll of the Uinta Band as full members or persons with a direct family relationship to a person listed on historical documents relied upon by the defendant United States to execute its government-to-government relationship to the historical Uinta Band prior to the termination of their individual special relationship with the United States.

89. The actions and course of conduct of the federal defendants, and their failure to follow an Act of Congress and the "share and share alike" agreement constitute breaches of these federal laws that have damaged all plaintiffs as alleged above.

90. As a direct and proximate result of the invalid and void BIA actions in regard to the breaches of the UPA and the "share and share like" agreement, plaintiffs and each of them were damaged to the statutory maximum of $10,000 per plaintiff.

WHEREFORE, plaintiffs pray for relief as set forth below.

SIXTH CAUSE OF ACTION

[5th Amendment Right to Due Process]
All Plaintiffs' Claims For Damages To All Plaintiffs' Right To Due Process Rights For Violations Of Acts Of Congress, 1937 IRA Constitution, Indian Civil Rights Act And The Common Law Of The Uinta Band Of Utes

91. Plaintiffs re-allege each of the allegations set forth in paragraphs 1 through 90 above, and by this reference incorporate each such allegation herein as if set forth.

92. The actions and course of conduct of the federal defendants, and their failure to follow an Act of Congress and the "share and share alike" agreement constitute breaches of these federal laws, the 1937 IRA Constitution, the Indian Civil Rights Act and the Common Law of the Uinta Band of Utes that the defendants were bound to protect under defendants' status as federal "guardians" over the Uinta Band and its individual members and their land, water rights and other valuable property and assets.

93. Plaintiffs' status as Indians conferred and continues to confer upon them valuable rights and immunities under the laws of the United States, which rights cannot lawfully be extinguished or suspended consistent with the Fifth Amendment of the Constitution of the United States, except by due process of law and upon payment of just compensation therefore.

94. The actions and course of conduct of the federal defendants, and their failure to

follow the plain and expressed language and intent of the UPA and the "share and share alike" agreement, as alleged above, constitute arbitrary and capricious actions that are not rationally related to a legitimate governmental interest and which go beyond the authority vested by the UPA in said defendants. Plaintiffs and/or their Estates were thus deprived of their 5th Amendment Constitutional right to due process, and as a direct result suffered damages in the amount of to be proven at trial.

WHEREFORE, plaintiffs pray for relief as set forth below.

SEVENTH CAUSE OF ACTION
[Breach of Trust]

95. Plaintiffs re-allege and incorporate herein by reference the allegations contained in Paragraphs 1 to 94.

96. Under the trust relationship between the United States and plaintiffs existing prior to and as confirmed by the 1937 IRA Constitution and Bylaws of the Ute Indian Tribe, a consolidation of separate Ute Bands each exercising its independence and traditional autonomy, defendants were and are obligated to safeguard the trust status of the lands and Indian rights and status of the individual members Uinta Band, their Estates, their children and their descendants and their immunities until such rights, status and immunities were lawfully extinguished in accordance with the intent of the Act of Congress in enacting the UPA and to compensate said Indians of the Uinta Band for monetary losses sustained by reason of defendants' breach of said obligations.

97. By reason of defendants' breaches of federal trust obligations in prematurely and unlawfully distributing the assets of the "490" and purportedly terminating the Indian status

of the people of the Uinta Band, each plaintiff has suffered damages and has been denied rights, benefits and services and immunities in the amount of three million dollars ($3,000,000) each or in an amount to be proven at trial, exclusive of interest and cost, for which defendant United States is liable.

WHEREFORE, plaintiffs pray as hereinafter set forth.

EIGHT CAUSE OF ACTION
[Action for Accounting]

98. Plaintiffs re-allege and incorporate herein by reference the allegations contained in Paragraphs 1 to 97.

99. Pursuant to the trust relationship between the United States and plaintiffs existing prior to and as confirmed by the 1937 IRA Constitution and Bylaws of the Ute Indian Tribe, a consolidation of separate Ute Bands each exercising its independence and traditional autonomy, defendants were and are obligated to safeguard the trust status of the lands and Indian rights and status of the individual members Uinta Band, their Estates, their children and their descendants and their immunities until such rights, status and immunities were lawfully extinguished in accordance with the intent of the Act of Congress in enacting the UPA and to compensate said Indians of the Uinta Band for monetary losses sustained by reason of defendants' breach of said obligations.

100. The individually named plaintiffs maintain vested rights and ownership interest to a portion of monies derived from the disposition of settlement funds earmarked and targeted for distribution to them that arise from a $32 million dollar Indian Claims Commission judgment allocated under the "share and share alike" agreement as approved

by Act of Congress on August 21, 1951.

101. Defendants have failed to account for the principal and interest of funds owed to them as members of the Uinta Band by Act of Congress that was lost to them and their children.

102. At all times alleged herein, Defendants were charged with carrying out the trust obligations of the United States to account and properly withhold the distribution of the claims settlement funds *until the UPA was implemented as intended by Congress.*

103. On information and belief, defendants have grossly mismanaged and continue to grossly mismanaged trust funds and failed to account for such funds belonging to plaintiffs.

104. Plaintiffs are owed an accounting by defendants, acting as their fiduciaries, of the funds deposited to their benefit mandate issued by Act of Congress on August 21, 1951.

105. Upon precise accounting by defendants of the amounts owed and due to them under the "share and share alike" agreement with the other foreign band of Colorado Utes, defendants must return such sums to plaintiffs with interest.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment against defendants and each of them as follows:

Pursuant to their First Cause of Action

1. That the court enter a judgment in favor of plaintiffs declaring that defendants breached their duty toward plaintiffs by failing to account for the earlier enacted federally-

approved IRA governing document and an Act of Congress and, thus, wrongfully deprived each of the plaintiffs out of their special relationship with the United States.

2. That the court enter a judgment in favor of plaintiffs declaring that the purported termination of their Indian status as members of the Uinta Band was and is void and without legal effect and that plaintiffs have been and remain eligible to participate in all federal programs and benefits provided to Indians because of their status as Indians.

Pursuant to their Second Cause of Action

1. That the court enter a judgment in favor plaintiffs declaring that the United States has maintained an uninterrupted and continuous relationship with the Uinta Band from early times to the present and the United States maintains in federal trust status to land, water rights and other valuable property of the Uinta Band.

2. That the court enter a judgment in favor plaintiffs declaring that Congress has not explicitly divested the Uinta Band of its inherent sovereign authority.

3. That the court enter a judgment in favor plaintiffs declaring that plaintiffs are entitled to a decree restoring their rights, status and privileges and immunities as Indians of the Uinta Band and a declaration that the conveyance of land, money and property belonging to the Uinta Band to the "Ute Indian Tribe" or other non-Indians and non-Indian entities is unlawful and in violation of the 1937 IRA Constitution.

Pursuant to their Third Cause of Action

1. That the court enter a judgment in favor plaintiffs declaring that plaintiffs not on the list of 490 who were born prior to the publication of the termination proclamation in 1961

and living at the moment the defendants purportedly terminated the special relationship of the 490 retained their status at all times in the un-extinguished tribal sovereign entity known as the "Uinta Band" pursuant to custom and tribal law mandating that a child born of parents who are members of a tribe retain their tribal identity at the time they are born.

2. That the court enter a judgment in favor of plaintiffs declaring that since the plaintiffs in the "should have been" enrolled in the Uinta Band category are members of the Uinta Band, their status a members supports a conclusion that the Uinta Band never ceased to exist as a federally-recognized tribal sovereign.

Pursuant to their Fourth Cause of Action

1. That the court enter a judgment in favor plaintiffs declaring that the past and current actions of federal officers, agents and employees in connection with the purported termination of the trust status of the lands and the Indian status of the people of the Uinta Band under the UPA were and are contrary to Acts of Congress, Executive Orders and the federally-approved Constitution and By-laws of the Ute Indian Tribe of the Uinta and Ouray Reservation, Utah, in excess of their legal authority and arbitrary and capricious, and that said actions have deprived and are continuing to deprive, plaintiffs of their aboriginal status as members of the Uinta Band and other vested federal rights in violation of the Constitution and laws of the United States.

Pursuant to their Fifth Cause of Action

1. That the court enter judgment against defendant United States of America finding that the actions and course of conduct of the federal defendants, and their failure to follow

an Act of Congress and the "share and share alike" agreement constitute breaches of these federal laws that have damaged all plaintiffs.

2. That the court enter judgment against defendant United States of America awarding to each plaintiff damages in the amount of $10,000 plus interest and cost.

Pursuant to their Sixth Cause of Action

1. That the court enter judgment against the defendant United States of America finding that plaintiffs' status as Indians was illegally extinguished or suspended in violation of the Fifth Amendment of the Constitution of the United States.

2. That the court declare that all plaintiffs have a right to submit to the federal defendants all claims for damages resulting from the acts and omissions of said defendants as alleged herein including damages resulting from lost eligibility for federal and tribal benefits and services available to members of federally-recognized Indian tribes for all times between the date judgment is entered in his case to the date the UPA became effective..

Pursuant to their Seventh Cause of Action

1. That the court enter judgment against the defendant United States of America finding that defendants all breached their federal trust obligations in terminating the Indian status of the people of the Uinta Band.

2. That the court enter judgment against defendant United States of America awarding to each plaintiff damages in the amount of three million dollars ($3,000,000) or an amount proven at trial.

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Pursuant to their Eight Cause of Action

That the court enter an order directing the defendants to account for and compile a historical accounting of all sums due and owed to plaintiffs as derived from the proceeds of monies set aside for them under the "share and share alike" provision approved by an Act of Congress on August 21, 1951.

For reasonable attorneys fees and cost of maintaining this action; and

For such other and further relief as this Court deems just and proper.

DATED: November 4, 2002

Dennis G. Chappabitty
Attorney at Law Okla. Bar Assn #1617
P.O. Box 292122
Sacramento, CA 95829
(916) 682-0575 (voice/fax)

Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ORANNA BUMGARNER FELTER
P.O. Box 465
Ft. Duchesne, Utah 84026

CALVIN HACKFORD
HC 76 Box 250
Whiterocks, UT 84085

ALVIN RICHARDSON DENVER
Rt. 1 - Box 2835
Roosevelt, UT 84066

JENS DALE CHRISTENSEN
P.O. Box 65
Lapoint , UT 84039

and Other Individually Named Persons,

Plaintiffs,

v.

GALE NORTON, Secretary of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

NEAL McCALEB, Assistant Secretary
of the Interior for Indian Affairs
1849 C. Street, N.W.
Washington, D.C. 20240

RALPH NORDWALL, Director, Bureau
of Indian Affairs, Southwestern
Regional Office
P.O. Box 10
Phoenix, Arizona 85001

CASE NUMBER 1:02CV02156

JUDGE: Royce C. Lamberth

DECK TYPE: Civil Rights (non-employmen

DATE STAMP: 11/04/2002

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CLERK'S OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CO-932
Rev. 4/96

NOTICE OF DESIGNATION OF RELATED CIVIL CASES PENDING
IN THIS OR ANY OTHER UNITED STATES COURT

02 2156

Civil Action No. _____
(To be supplied by the Clerk)

NOTICE TO PARTIES:

Pursuant to Rule 405(b)(2), you are required to prepare and submit this form at the time of filing any civil action which is related to any pending cases or which involves the same parties and relates to the same subject matter of any dismissed related cases. This form must be prepared in sufficient quantity to provide one copy for the Clerk's records, one copy for the Judge to whom the cases is assigned and one copy for each defendant, so that you must prepare 3 copies for a one defendant case, 4 copies for a two defendant case, etc.

NOTICE TO DEFENDANT:

Rule 405(b)(2) of this Court requires that you serve upon the plaintiff and file with your first responsive pleading or motion any objection you have to the related case designation.

NOTICE TO ALL COUNSEL

Rule 405(b)(3) of this Court requires that as soon as an attorney for a party becomes aware of the existence of a related case or cases, such attorney shall immediately notify, in writing, the Judges on whose calendars the cases appear and shall serve such notice on counsel for all other parties.

The plaintiff , defendant or counsel must complete the following:

I. RELATIONSHIP OF NEW CASE TO PENDING RELATED CASE(S).

A new case is deemed related to a case pending in this or another U.S. Court if the new case: [Check appropriate box(e's) below.]

- [X] (a) relates to common property
- [ ] (b) involves common issues of fact
- [ ] (c) grows out of the same event or transaction
- [ ] (d) involves the validity or infringement of the same patent
- [ ] (e) is filed by the same pro se litigant

2. RELATIONSHIP OF NEW CASE TO DISMISSED RELATED CASE(ES)

A new case is deemed related to a case dismissed, with or without prejudice, in this or any other U.S. Court, if the new case involves the same parties and same subject matter.

Check box if new case is related to a dismissed case: [ ]

3. NAME THE UNITED STATES COURT IN WHICH THE RELATED CASE IS FILED (IF OTHER THAN THIS COURT):

U.S. District Court for the District of Utah, Ute Distribution Corp. v. Secretary of the Interior, 95 - CV - 376B

4. CAPTION AND CASE NUMBER OF RELATED CASE(E'S). IF MORE ROOM IS NEED PLEASE USE OTHER SIDE.

Elouise Pepion Cobell v. Gale A. Norton C.A. No. 96-1285 RCL

November 4, 2002
DATE

Signature of Plaintiff /Defendant (or counsel)